TITLE VII.

PUBLIC WAYS AND PLACES

(The purpose of this Title is to encompass those ordinances that concern public highways and public places. The ordinances will deal with the county administration and management of public ways and places and with regulations governing the conduct of the general public thereon. The primary intent of this Chapter is to insure that the public may utilize public lands to the best advantage.)

CHAPTER

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CHAPTER 18

PUBLIC ROADS, STREETS AND HIGHWAYS

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ARTICLE 1. RESTRICTIONS ON USE OF ROADS, STREETS AND HIGHWAYS

Sec. 18-1.1 Purpose.

An ordinance to regulate and control the use of roads, streets and highways and providing a penalty for the violation thereof. (Ord. No. 171, April 4, 1973; Sec. 18-1.1, R.C.O. 1976)

Sec. 18-1.2 Restricted Uses.

The County Council may if it deems necessary for the purpose of preserving the public health, safety and welfare restrict the following uses of any road, street and highway under its jurisdiction by prohibiting:

(1) Use of a loud speaker or sound amplifier for projection of sound from any vehicle.

(2) Use by a commercial vehicle or by specific types of vehicles or by vehicle weight, load or size.

(3) Use for commercial, business or other income motivated purpose for private gain or charitable purposes.

(4) Use for processions or assemblages. (Ord. No. 171, April 4, 1973; Sec. 18-1.2, R.C.O. 1976)

Sec. 18-1.3 Imposition, Publication And Posting Of Restrictions.

The Council shall impose any restriction deemed desirable by resolution. No penalty shall be imposed until the resolution has been published once in a newspaper of general circulation in the County, and where only specified roads, streets or highways are restricted, appropriate signs noting the restriction are posted. (Ord. No. 171, April 4, 1973; Sec. 18-1.3, R.C.O. 1976)

Sec. 18-1.4 Penalties.

Any person convicted of violating any restrictive use set by resolution of the Council pursuant to this Article shall be subject to the penalties provided for in Section 16-21.8 of the Kauai Traffic Code, this volume. (Ord. No. 171, April 4, 1973; Sec. 18-1.4, R.C.O. 1976)

ARTICLE 2. IMPROVEMENTS TO PRIVATE STREETS AND ROADS

Sec. 18-2.1 Findings And Purpose.

The Council finds that, in order to promote the safety and welfare of those who reside and/or are serviced by certain

private (non-dedicated or non-surrendered) streets and roads, it is in the public interest that the County's policy for the improvement and maintenance of certain private streets and roads be stated.

The Council further finds that, in certain instances, quick emergency response time in life-threatening situations is hindered by the poor condition of certain private (non-dedicated or non-surrendered) streets and roads, which often require maintenance and/or improvement in order to improve accessibility for emergency vehicles.

The purpose of this ordinance is to establish the policy, pursuant to Chapter 265A-1, H.R.S., as amended in 1988, under which the county may improve, grade, repair, or do any construction work on private (non-dedicated or non-surrendered) streets or roads as much as possible, within the physical constraints of each such private (non-dedicated or non-surrendered) streets or roads. (Ord. No. 728, January 29, 1999)

Sec. 18-2.2 Definitions.

As used in this article:

"County engineer" shall mean the county engineer, department of public works, county of Kaua'i, or a duly authorized representative.

"Planned community" shall mean a common interest community which includes the following characteristics:

(1) Real property subject to a recorded declaration placing restrictions and obligations on the owners of the real property and providing for rights and responsibilities of a separate entity, the association:

(A) Which owns and maintains certain property within the planned community, such as streets or roads, for the common use or benefit, or both, of the owners of units within the community;

(B) Which is obligated to maintain certain property, which includes streets and roads, it does not own within the planned community for the common use or benefit, or both, of owners of units within the planned community; or

(C) Which is obligated to provide services to any such owners or units;

(2) Individual owners own separate units which are part of a planned community at least some of which are improved by or are to be improved by residential dwellings;

(3) Owners have automatic and non-severable membership in an association by virtue of ownership of units within the planned community; and

(4) Owners, other than the master developer or declarant, are obligated to pay mandatory assessments by virtue of ownership of a unit within the planned community.

"Planned development" shall mean a housing development

"Planned development" shall mean a housing development project, also known as a cluster housing development or planned unit development, where the apartment owner holds a leasehold interest in the lot, under his or her unit.

"Private (non-dedicated and non-surrendered) streets or roads" shall mean streets or roads used for purposes of vehicular traffic which are owned, in whole or in part, by persons other than governmental entities and which have not been dedicated or surrendered to the county in accordance with Chapter 264-1(c) (1) and (2), H.R.S., excluding alleys, ways, lanes, trails, bikeways, bridges or other non-vehicular right-of-way or any alley, bicycle lane, bicycle path, or bikeway as those terms are defined in Chapter 291C-1, H.R.S. (Ord. No. 728, January 29, 1999)

Sec. 18-2.3 Process.

Notwithstanding any other ordinance to the contrary, private (non-dedicated and non-surrendered) streets or roads may be maintained or improved only if such streets or roads meet the criteria herein, are not prohibited by the exclusions herein, and are specifically approved for improvements through the annual budget process. (Ord. No. 728, January 29, 1999)

Sec. 18-2.4 Surface Maintenance.

(a) Subject to the availability of appropriations, the department of public works may maintain by either remedial patching, resurfacing, or paving those portions of private (non-dedicated or non-surrendered) streets and roads which have been determined by the county engineer to meet the following criteria:

(1) The street or road has not been dedicated or surrendered to the county or any other governmental entity, and is not otherwise owned by the county or any other governmental entity;

(2) The street or road is not maintained by any other governmental entity other than the county pursuant to this article;

(3) The street or road is open to, serves, and benefits the general public;

(4) The street or road is not signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude access by the general public, in whole or in part, which may be through such means as indicating that the street or road is a "private" street or road or any restrictions on parking which are not applicable to all persons except as otherwise provided by law;

(5) The street or road directly serves six (6) or more parcels and at least six (6) of the parcels served are owned by separate individuals or entities;

(6) The street or road is not part of a cluster housing development, planned community, planned development, or similar type of development;

(7) Maintenance of the street or road by the county will be practicable and safe;

(8) The street or road is not a private street or road within the meaning of Chapter 9, Kauai County Code 1987, or any rules and regulations adopted pursuant thereto;

(9) The developer or subdivider of such street or road has not agreed to maintain such street or road in perpetuity;

(10) Maintenance of the street or road surface is necessary to protect the safety of motorists and pedestrians or is otherwise in the public interest;

(11) The street or road does not suffer such design defects as to make use of the street or road hazardous to the general public; and

(12) The street or road was part of an approved subdivision prior to adoption of Ordinance No. 94 (the Subdivision Ordinance, adopted on May 2, 1956).

If a private (non-dedicated or non-surrendered) street or road is proposed to be maintained by the county, the persons collectively owning a sixty percent (60%) or more interest in the fee title or an appropriate roadway easement in the street or road shall initiate and submit a written request to the county engineer for the maintenance of the street or road no later than July 31 of any fiscal year on a form provided by the County Engineer. If the county engineer determines that the private (non-dedicated or non-surrendered) street or road satisfies the criteria set forth in this subsection, the county engineer may, subject to the availability of appropriations, proceed to maintain the street or road, provided that the persons having the right to control the use of the street or road shall submit their legal, written approval of the maintenance work. The persons having the right to control the use of the street or road shall agree to such terms, conditions, and covenants as may be determined by the county engineer to be for the convenience and protection of the county and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the street or road shall agree to is the condition that they keep the street or road open to the general public for as long as the county may maintain the street or road surface or for a period of time specified in the agreement, whichever is longer. The requirement for a written request, approval, and agreement shall not apply, however, to a (i) street or road over which the department of public works exercises surface maintenance responsibilities on the day prior to the effective date of this article, or (ii) a street or road which the county engineer, with the approval of the planning director, determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein shall be construed as prohibiting the county engineer from requiring a written approval or agreement for new maintenance work on

streets or roads over which the department of public works exercises surface maintenance responsibilities on the day prior to the effective date of this article if the county engineer determines that such an agreement is in the best interest of the county.

(b) Paved roads shall be maintained by remedial patching. Remedial patching shall be with materials as determined by the county engineer. If the county engineer determines that the pavement is in such poor condition that remedial patching is impractical and not cost effective, resurfacing with materials as determined by the county engineer may be provided.

Unpaved roads shall be maintained by remedial patching. Remedial patching shall be with materials as determined by the County Engineer. If the county engineer determines that the street or road surface is in such poor condition that remedial patching is not cost effective and does not serve the best interests of motorists and pedestrians, resurfacing with materials as determined by the county engineer may be provided.

Maintenance work to be performed by the county pursuant to this section shall not include installation or maintenance of curbs, shoulders, gutters, drainage facilities, bridges, or similar infrastructure.

(c) The county engineer shall discontinue maintenance of specific private (non-dedicated or non-surrendered) streets and roads, when the county engineer determines that such streets and roads no longer meet the criteria set forth in subdivisions (1) through (11) of subsection (a), or when requested in writing by the persons having the right to control the use of the street or road. Prior to discontinuing maintenance of any private (non-dedicated or non-surrendered) street or road, the county engineer shall provide each owner and roadway easement holder of record of the street or road with thirty (30) days' written notice of such proposed action. Where maintenance is discontinued because the street or road is signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude the general public, in whole or in part, the county engineer is authorized, to the extent legally and economically feasible, to recover any removable fixtures or materials, if any, installed by the county, and recover from the owners or roadway easement holders of the street or road, as may be appropriate, the value of the fixtures or materials left in place.

(d) Nothing contained in this section and no action undertaken pursuant to this section shall be construed as adoption, acceptance, or approval of a private (non-dedicated or non-surrendered) street or road as a public highway. (Ord. No. 728, January 29, 1999)

Sec. 18-2.5 Rule making authority.

In accordance with Chapter 91, H.R.S., the county engineer may adopt rules having the force and effect of law for the implementation, administration and enforcement of Sections 18-2.3 and 18-2.4, respectively. (Ord. No. 728, January 29, 1999)

ARTICLE 2. (RESERVED)

ARTICLE 3. EXCAVATION AND REPAIRS OF STREETS AND SIDEWALKS

Sec. 18-3.1 Permit Required.

No person shall in any manner or for any purpose, break up, dig up, disturb, undermine or dig under, or cause to be broken up, dug up, disturbed, undermined or dug under, any public highway, street, thoroughfare, alley or sidewalk, or any other public place under the supervision or control of the County of Kauai without having first obtained a written permit therefor from the Department of Public Works of the County of Kauai, provided that work to accomplish emergency repairs to utilities may be started without a permit. (Ord. No. 2, December 5, 1905; Sec. 18-3.1, R.C.O. 1976)

Sec. 18-3.2 Excavation, Manner Of Making And Backfilling.

(a) In doing any of the work specified in Section 18-3.1, the paving or other excavated material shall be kept separate and deposited in a manner that will occasion the least inconvenience to the public. In connection with the performance of the work covered by the permit, the permit holder shall provide proper surface drainage and safe passageway for travel, including sufficient barriers, lights from twilight to sunrise, or watchmen, whenever the barriers, lights or watchmen shall be necessary for the proper safety and protection of the public. The barriers or lights when so required shall be so arranged as to effectually define the line of safe passage for pedestrian and vehicular traffic. The permit holder shall be responsible for all damages of every kind or nature suffered because of the work done by him, or resulting from the performance of the work.

(b) As soon as practicable after finishing any excavation or other opening in, or under public highway, street, thoroughfare, sidewalk, or other public place, the holder of the permit shall carefully refill it. The soil for backfill shall be as free of adobe as possible and no lumps of soil having any dimension greater than four (4) inches, shall be used in the backfill of any trench or other street opening or excavations authorized by this Article.

(c) After the street opening, trench or other excavation has been completely backfilled and tamped, the site shall be thoroughly cleaned by the permit holder, and all excess excavation and other foreign matter caused by the excavation or otherwise by the permit holder, shall be removed and deposited in an area as shall be designated by the County Engineer, at the cost and expense of the permit holder. (Sec. 18-3.2, R.C.O. 1976)

Sec. 18-3.3 Notice Of Completion Of Backfill.

Immediately upon the completion of the tamping and refilling of any excavation or opening as provided in this

Article, the holder of the permit shall notify the County Engineer of that fact stating the location of the opening, and if the opening is in or partly in a pavement, base course, or through a concrete gutter, curb or sidewalk, or any other public structure, the street opening shall then be turned over to the Department of Public Works for repaving or for repairing such other public structure damaged by the permit holder. (Sec. 18-3.3, R.C.O. 1976)

Sec. 18-3.4 Restoration By The County.

In the case of any excavation which has not been backfilled or restored in accordance with the provisions of this Article, the County Engineer shall make or cause to be made, the necessary repairs and the expenses thereof shall be charged to and collected from the permit holder. Repairs shall include, but not limited to, the restoration of the foundation and surface, re-excavation and backfilling of excavations, repairs to any public structure and replacement of any public structure not properly restored. (Ord. No. 2, December 5, 1905; Sec. 18-3.4, R.C.O. 1976)

Sec. 18-3.5 Penalty.

Any person who violates any provision of this Article shall, upon conviction, be punished by a fine not exceeding two hundred fifty dollars ($250). (Sec. 18-3.5, R.C.O. 1976)

ARTICLE 4. RELOCATION OF UTILITY FACILITIES IN COUNTY PROPERTY

Sec. 18-4.1 Purpose.

An ordinance regulating the relocation of utility facilities in County property. (Ord. No. 347, April 6, 1978; Sec. 18-4.1, 1978 Cumulative Supplement)

Sec. 18-4.2 Definitions.

When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

(1) "County Property" means any land owned or leased by the County and includes any County roadway or right-of-way and not a State highway or Federal-Aid highway within the meaning of Section 264-33, H.R.S.

(2) "Utility Facility" means and includes any surface, underground or overhead water mains, fire hydrants, gas mains, sewer mains, pipes (including fuel oil lines), conduits, utility manholes, padmount transformers, padmount switches, poles, wires, cables, lines, street lighting structures or equipment, and the appurtenances thereto, owned by any privately owned public utility and used in connection with the producing or furnishing of water, gas, light, electric power,

sewerage services, communications, transportation, television cable service, or other public utility services. (Ord. No. 347, April 6, 1978; Sec. 18-4.2, 1978 Cumulative Supplement; Ord. No. 569, April 30, 1990)

Sec. 18-4.3 Easement Rights.

In the event that any utility facility has any easement rights in, on, over or under County property and the use of the County property for utility facility purposes shall cease for any continuous period of two (2) years, any easement rights shall automatically terminate and revert back to the County unless there is a contrary provision in any law, franchise or regulation having the force of law and having precedence over County ordinances. (Ord. No. 347, April 6, 1978; Sec. 18-4.3, 1978 Cumulative Supplement)

Sec. 18-4.4 Authorization For Placement And Relocation; County Indemnification; And Penalty

(a) No person or entity shall place, erect, construct, remove, relocate or change the position of any utility facility on County property without first obtaining authorization from the County Engineer.

(b) As required by the County Engineer, any person or entity who places or relocates a utility facility on County property shall enter into an Agreement of Indemnity with the County.

(c) Any person convicted of violating any provision of this Section is guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500) for each offense. A separate offense is committed upon each day during or on which a violation occurs or continues. (Ord. No. 569, April 30, 1990)

Sec. 18-4.5 Removal, Relocation, Replacement, Or Reconstruction Of Utility Facility.

(a) Whenever, as the result of the work of construction, reconstruction, or maintenance of any County property, it is necessary to provide for or require the removal, relocation, replacement, or reconstruction of any existing utility facility located in, on, over, or under County property, the utility shall bear the first ten thousand dollars ($10,000) cost of the removal, relocation, replacement or reconstruction of its facilities and the balance of the cost shall be borne equally by the owner and the County computed in accordance with Section 264-33(c), H.R.S. when the adjustment is made without changing the type of construction. If a change in the type of construction (i.e. overhead to underground) is requested by the County, the additional costs involved will be borne by the County.

(b) Whenever five hundred (500) or more voters registered in the last general election petition the County requesting the removal, relocation, replacement or reconstruction of any existing utility facility located in or

on County property and said work is not the result of construction, reconstruction or maintenance of County property pursuant to subsection (a) above, the County Council may, in the interest of public safety, require such removal, relocation, replacement or reconstruction provided however that all related cost shall be borne by the County. (Ord. No. 347, April 6, 1978; Sec. 18-4.4, 1978 Cumulative Supplement; Ord. No. 569, April 30, 1990)

Sec. 18-4.6 Utility Agreement.

When a request is made by the County for the removal, relocation, replacement or reconstruction of any utility facility as provided for in Sec. 18-4.5(a), a utility agreement shall be executed within thirty (30) days after the receipt of the County's request specifying a mutually agreeable time interval to complete the project. If an agreement is not reached within the thirty (30) day limitation or any extension agreed upon, the terms of the utility agreement shall be as proposed by the County. (Ord. No. 347, April 6, 1978; Sec. 18-4.5, 1978 Cumulative Supplement; Ord. No. 569, April 30, 1990)

Sec. 18-4.7 Ratification Of Past Approvals.

All approvals granted by the County Engineer for the placement and relocation of utility facilities and for which an Agreement of Indemnity with the County has been entered prior to the adoption of this Section, are hereby ratified and deemed authorized by the County Council. (Ord. No. 569, April 30, 1990)

CHAPTER 19

PUBLIC PARKS AND RECREATION

Article 1. Regulation And Control Of County Parks And Recreational Areas
- Sec. 19-1.1 Title
- Sec. 19-1.2 Application And Scope
- Sec. 19-1.3 Definitions
- Sec. 19-1.4 General Prohibitions Applicable To All Parks And Recreation Facilities
- Sec. 19-1.5 Operating Policy
- Sec. 19-1.6 Priority Of Use
- Sec. 19-1.7 Fees And Deposits
- Sec. 19-1.8 Insurance
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- Sec. 19-1.11 Standards For Issuance
- Sec. 19-1.12 Responsibility Of The Applicant
- Sec. 19-1.13 Limitation On Type VI Activity
- Sec. 19-1.14 Liability Of Permittee
- Sec. 19-1.15 Revocation
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- Sec. 19-1.18 Promulgation Of Rules And Regulations

Article 2. Camping On County Parks And Properties
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- Sec. 19-2.2 Title
- Sec. 19-2.3 When Permit Required; Time For Issuance
- Sec. 19-2.4 Permit Terms And Conditions
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Article 3. Wailua Golf Course
- Sec. 19-3.1 Declaration Of Purpose And Intent
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- Sec. 19-3.3 Regulation Of Play
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ARTICLE 1. REGULATION AND CONTROL OF COUNTY PARKS AND RECREATIONAL AREAS

Sec. 19-1.1 Title.

This Article shall be known as and may be cited and referred to as "The Parks and Recreation Ordinance for the County of Kauai". (Ord. No. 383, April 30, 1980)

Sec. 19-1.2 Application And Scope.

(a) This Article shall apply to all County Parks, Neighborhood Centers, swimming pools, tennis courts, athletic fields, stadiums and recreational areas, excluding the County Municipal Golf Course and the Kauai War Memorial Convention Hall.

(b) The provisions contained herein are not to be construed to exclude the operation of applicable State statutes or other County ordinances. In case of duplication of laws, the stricter provision shall be applied.

(c) If any section, sentence, clause or phrase of this Article, or its application to any person, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portion of this Article, or the application of this Article to other persons, shall not be affected. (Ord. No. 383, April 30, 1980)

Sec. 19-1.3 Definitions.

The following definitions shall apply to the provisions contained in this Article:

(1) "County" shall mean the County of Kauai, State of Hawaii.

(2) "County Engineer" shall mean the County Engineer, Department of Public Works, County of Kauai, or his duly authorized representative.

(3) "Department" shall mean the Department of Public Works, County of Kauai.

(4) "Deposits" shall mean sums of money placed with the Department or Office as security for the use and maintenance of parks and recreation facilities.

(5) "Director" shall mean the Director of the Offices of Community Assistance, Office of the Mayor, County of Kauai, or his duly authorized representative.

(6) "Office" shall mean the Offices of Community Assistance, County of Kauai.

(7) "Parks" shall mean any park, park roadway, playground, beach right-of-way, or other recreational areas under the control, management, and operation of the County.

(8) "Permits" shall mean a written authorization signed by the Director of the Offices of Community Assistance or his representative allowing use of parks and recreational facilities.

(9) "Recreation facilities" shall mean any building or other physical structure, such as swimming pools, gymnasiums, community centers, pavilions, picnic tables,

used for recreational purposes and under the control, management, and operation of the County.

(10) "Type I Activity" shall mean an activity organized and conducted by the County.

(11) "Type II Activity" shall mean an activity open to the public and co-sponsored by the County and/or the State.

(12) "Type III Activity" shall mean an activity organized and sponsored by any non-profit entity which does not charge for admission, solicit donations, or involve the sale of goods, wares, merchandise or services to the general public.

(13) "Type IV Activity" shall mean an activity organized and sponsored by any person or entity which does not charge admission, solicit donations, or involve the sale of goods, wares, merchandise or services to the general public.

(14) "Type V Activity" shall mean an activity organized and sponsored by any non-profit entity which charges admission, solicits donations, or involves the sale of goods, wares, merchandise or services to the general public.

(15) "Type VI Activity" shall mean an activity organized and sponsored by any person who charges for admission, solicits donations, or sells goods, wares, merchandise, or services to the general public for profit. (Ord. No. 383, April 30, 1980; Ord. No. 405, January 22, 1981; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.4 General Prohibitions Applicable To All Parks And Recreation Facilities.

(a) No person at a park or recreation facility shall:

(1) Abandon any vehicle or other personal property.

(2) Leave any vehicle or other personal property unattended for longer than twenty-four (24) hours.

(3) Operate or use any audio devices including radios, television sets, musical instruments or noise-producing devices such as electric generators, or other equipment driven by motors or engines, in such a manner and at such times that produces unreasonable noise as defined in HRS Chapter 711-1101, unless authorized by the Director or his designated representative on a permit.

(4) Use utilities and appurtenances for non-recreational, commercial, or other activities, unless authorized by the Director or his designated representative on a permit.

(5) Install aerial or other special radio, telephone, or television equipment, unless authorized by the County Engineer or his designated representative on a permit.

(6) Operate or use public address systems, whether fixed, portable or mounted on a vehicle, unless

authorized by the Director or his designated representative on a permit.

(7) Disturb or interfere with any other person occupying an area, or participating in any authorized activity.

(8) Lead or let loose any dogs or other domestic animals, unless authorized by the Director or his designated representative on a permit.

(9) Use, carry or possess firearms and weapons of any description, except for bows and arrows for archery competitions and air rifles for air rifle competitions when authorized by the Director or his designated representative on a permit.

(10) Drive or park motorized vehicles, including dune buggies, motorcycles, minicycles, and scooters, or ride horses, except on designated roads and parking areas, unless authorized by the County Engineer or his designated representative by signage or on a permit.

(11) Mark, deface, or remove any natural feature or natural resources.

(12) Destroy, injure, deface or remove in any manner any public building, sign, equipment, monument, marker or other structure.

(13) Destroy, dig or remove tree, shrub or other plant, unless authorized by the County Engineer or his designated representative on a permit.

(14) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, unless authorized by the County Engineer or his designated representative on a permit, except for a pre-fab and manufactured quick tent no larger than 20 feet x 20 feet for an event or gathering.

(15) Start a fire except within designated grills, portable grills, and fireplaces. No fire shall be left unattended and all fires shall be fully extinguished after use.

(16) Throw or drop a lighted cigarette, cigar, pipe heel, match or other burning material, except to start a fire within designated grills, portable grills, and fireplaces as allows in paragraph 15.

(17) Use roller skates, roller blades, skateboards, or bicycles except in designated areas authorized by the County Engineer or his designated representative through signage.

(18) Dance on any gymnasium floor while wearing shoes, provided that dancing with shoes shall be permitted if a protective covering over the floor is used.

(19) Dispose litter in other than designated trash receptacles.

(20) Possess or consume any intoxicating liquor between the hours of 11:00 P.M. and 6:00 A.M., provided that this section shall not apply to campers with valid camping permits.

(21) Operate or use air-horns, unless authorized by the Director or his designated representative on a permit, or to start or end events or races. As used herein, air-horn means a device intended to produce a sound signal by means of compressed air or gas or exhaust gas.

(b) Entering or remaining in a park area when manifestly under the influence of alcohol, narcotics or other drugs, to a degree that may endanger oneself or other persons or property, or unreasonably annoy persons in the vicinity is prohibited.

(c) County Employees authorized by the County Engineer or the Director shall have the authority to issue citations and charges for any violations of the provisions of this Section.

(d) Any person convicted of violating any provision of this Section or as the same may be amended or supplemented, shall be punished by a fine not exceeding $500.00 nor less than $15.00. In addition, the County shall have the right to avail itself of any civil remedy appropriate under the circumstances.

(e) Expiration. Section 19-1.4(a)(20) is hereby repealed 18 months after its enactment. (Ord. No. 383, April 30, 1980; Ord. No. 768, June 12, 2001; Ord. No. 772, July 13, 2001; Ord. No. 798, December 4, 2002; Ord. No. 803, May 28, 2003)

Sec. 19-1.5 Operating Policy.

(a) Parks shall be open to the public every day of the year during the designated hours unless closed for good cause by the County Engineer. The opening and closing hours of each park and recreation facility shall be posted therein.

(b) Any section or part of any park or recreation facility may be declared closed to the public by the County Engineer at any time, as the County Engineer shall find reasonably necessary for the health, safety or welfare of the public. (Ord. No. 383, April 30, 1980)

Sec. 19-1.6 Priority Of Use.

If more than one person or organization applies for the use of a park or recreational facility for the same time and for the same type of activity, priority as to the use will be on the basis of the first written application received. Persons wishing to reserve a park or recreational facility on a continuing basis may do so; however, should conflicting requests arise, continuing reservations may be cancelled by the Director. In all cases, Type I and Type II activities shall have priority of use over all other activities. (Ord. No. 383, April 30, 1980; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.7 Fees And Deposits.

(a) Fees shall be charged for use of parks and recreation facilities by persons or organizations desiring to engage in Type III night, Type IV day and night, and all

Type V and all Type VI Activities. Fees shall be charged in accordance with the fee schedule set forth in Section 19-1.9 herein.

(b) A custodial deposit shall be required for use of parks and recreation facilities by persons or organizations desiring to engage in Type III, Type IV, Type V and Type VI Activities. Custodial deposits are refundable upon determination by the County Engineer that the cleaning and restoration of the facility or park have been satisfactorily performed, provided that the deposit will be returned no later than ten (10) working days after the date of the event. Custodial deposits will be forfeited to the department if restoration is not completed within the time provided for on the permit. If the permit holder does not satisfactorily clean and restore the facility or park, the department may perform the necessary cleaning and restoration from the deposit and recover the cost of said repairs of any cleaning and restoration in excess to said deposit. The Director may deny future permits to the permit holder upon the County Engineer's recommendation and the failure on the part of the permit holder to satisfactorily clean and restore any park or recreation facility. If damage is caused by the permit holder and/or guests and the County Engineer determines that such damage is hazardous to park users or employees, the department may perform the necessary repairs and deduct the cost of said repairs for any damages in excess of the custodial deposit. Custodial deposits may be charged in accordance with the deposit schedule set forth in Section 19-1.9 herein. (Ord. No. 383, April 30, 1980; Ord. No. 405, January 22, 1981; Ord. No. 417, November 4, 1981; Ord. No. 803, May 28, 2003)

Sec. 19-1.8 Insurance.

The Director may require persons or organizations desiring to engage in Type III activities and shall require persons or organizations desiring to engage in Type IV, Type V and Type VI activities to secure general liability, property damage, and other insurance, and to include the County as additional insured. (Ord. No. 383, April 30, 1980; Ord. No. 803, May 28, 2003)

Sec. 19-1.9 Schedule Of Fees And Deposits.

SCHEDULE OF FEES

Type of Facility	TYPE I	TYPE II	TYPE III DAY	TYPE III NIGHT	TYPE IV DAY	TYPE IV NIGHT	TYPE V* DAY	TYPE V* NIGHT	TYPE VI DAY	TYPE VI NIGHT
Lihue Stadium	0	0	0	25.00	50.00	150.00	100.00	300.00	150.00	350.00
Hanapepe Stadium	0	0	0	15.00	30.00	90.00	60.00	180.00	100.00	200.00
Ballfields and Playgrounds	0	0	0	0	0	0	25.00	50.00	100.00	200.00
Swimming Pools	0	0	0	0	0	0	25.00	50.00	100.00	200.00
Tennis and Basketball Courts	0	0	0	0	0	0	25.00	50.00	100.00	200.00
Community Centers and Gymnasiums (0-200 people)	0	0	0	0**	25.00**	50.00**	25.00	50.00	100.00	125.00
Community Centers and Gymnasiums (201-500 people)	0	0	0	0	25.00**	50.00**	35.00	75.00	150.00	200.00
Community Centers and Gymnasiums, Swimming Pools, Ballfields, and Playgrounds (Classes taught by non-departmental personnel)	0	0	0	0	Not perm.	Not perm.	5.00/hr	10.00/hr	20.00/hr	30.00/hr
Pavilions (15 people or less)	0	0	0	0	0	0	10.00	15.00	Not perm.	Not perm.
Pavilions (16-100 people)	0	0	0	0	0	0	15.00	20.00	Not perm.	Not perm.
Pavilions (101-500 people)	0	0	0	0	0	0	20.00	30.00	Not perm.	Not perm.
Kitchen Facilities	0	0	0	0	5.00	5.00	10.00	10.00	25.00	25.00
Lunch Wagon and Sundry Wagon									5.00/day 25.00/wk 100.00/mo.	5.00/day 25.00/wk 100.00/mo

*Type V youth athletic events, except for interscholastic athletic competitions, shall be assessed one-half (1/2) the rate for Type V activities at the stadiums, ballfields and playgrounds, swimming pools and tennis courts.

**Use of community centers for overnight accommodations by non-profit youth organizations shall be permitted at no charge. Overnight accommodation use by other organizations, groups, or persons, except in the case of public emergency, is prohibited.

***Community Centers and gymnasiums used for any activity where meals are not consumed will be exempt from paying fees.

CUSTODIAL DEPOSIT FEES

	I	II	III	IV	V	VI
Lihue Stadium	0	0	50.00	100.00	150.00	200.00
Hanapepe Stadium	0	0	50.00	100.00	150.00	200.00
Ballfields and Playgrounds	0	0	10.00	20.00**	60.00	200.00
Swimming Pools	0	0	10.00	20.00**	60.00	200.00
Tennis and Basketball Courts	0	0	5.00	10.00*	30.00	200.00
Community Centers and Gymnasiums (0-200 people)	0	0	10.00**	20.00**	60.00	150.00
Community Centers and Gymnasiums (201-500 people)	0	0	15.00**	30.00**	90.00	200.00
Pavilions (15 people or less)	0	0	0	10.00	20.00	Not permitted
Pavilions (16-100 people)	0	0	5.00	10.00	30.00	Not permitted
Pavilions (101-500 people)	0	0	10.00	15.00	40.00	Not permitted
Lunch and Sundry Wagons	N/A	N/A	N/A	N/A	N/A	100.00
Kitchen Facilities (Food Booths included)	0	0	20.00	40.00	60.00	150.00
Community Centers and Gymnasiums, Swimming Pools, Ballfields and Playgrounds (Classes taught by non-departmental personnel)	0	0	0	Not permitted	100.00	150.00

*Individual or single family day users of these facilities are exempt from this deposit schedule.

**Activities that do not include any meal consumption are exempt from this deposit schedule. Notwithstanding the aforementioned, use of community centers for overnight accommodations by non-profit youth organizations shall be subject to a $50.00 custodial deposit.

(Ord. No. 383, April 30, 1980; Ord. No. 405, January 22, 1981; Ord. No. 417, November 4, 1981)

Sec. 19-1.10 Permit Procedure For Type III, Type IV, Type V And Type VI Activities.

(a) A person or organization seeking issuance of a permit for Type III, Type IV, Type V and Type VI activities shall file an application. The application shall include:

(1) Name and address of person or organization sponsoring the activity.

(2) The nature of the activity to be engaged in by person or organization.

(3) Day and hours for which permit is desired.

(4) Park or recreation facility or portion for which permit is desired.

(5) Estimate of the anticipated attendance.

(6) Payment in full of all required deposits.

(7) Any other information which the Director may require in making a determination as to whether the permit should be issued.

(b) Application for permits for Type III, Type IV, Type V and Type VI Activities shall be made at least ten (10) days before the scheduled activity. Exceptions to the ten (10) days application deadline may be granted by the Director, provided that if the County Engineer or Director determines that unscheduled work is necessary to prepare the park and recreation facility for the requested activity, the applicant shall either pay for such work or perform the necessary preparatory work under the supervision and with the approval of the County Engineer or Director. (Ord. No. 383, April 30, 1980; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.11 Standards For Issuance.

The Director shall issue a permit if he determines that:

(1) The proposed activity will not interfere with or detract from the general public enjoyment of the park or recreation facility.

(2) The proposed activity will not adversely affect public health, safety and recreation.

(3) The proposed activity will not incite violence, crime, or disorderly conduct.

(4) The proposed activity will not entail unusual, extra or burdensome expense to the County.

(5) The park and recreation facility has not been reserved for other use at the day and hour requested by the applicant. (Ord. No. 383, April 30, 1980; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.12 Responsibility Of The Applicant.

Any applicant granted a permit for Type III, Type IV, Type V or Type VI Activities shall be responsible for the following:

(1) Obtain the necessary permit required by state and other county agencies.

(2) Secure utility services not provided by the Department.

(3) Hire non-departmental personnel deemed necessary by the Director for the safety and welfare of the general public.

(4) Perform whatever work deemed necessary by the County Engineer to accommodate the planned activity, and restore the park or recreation facility to its original condition after use, including disposal of trash and litter to the sanitary landfill.

(5) Perform or cause to be performed daily custodial services while the permit is effective, and a final cleaning after use of the park or recreation facility.

(6) Comply with all provisions of this Article.

(7) File, if applicable, a tax clearance statement with the State of Hawaii and the Director within forty-eight (48) hours after the expiration of the permit.

(8) Any applicant granted a permit for Type V and Type VI Activities shall permit the Director or his designated representative to supervise the collection of all monies received in the course of the activity.

(9) Any applicant granted a permit for Type III, Type IV, Type V and Type VI Activities shall permit the Director or his designated representative to monitor the number of participants at any of the activities. (Ord. No. 383, April 30, 1980; Ord. No. 803, May 28, 2003)

Sec. 19-1.13 Limitation On Type VI Activity.

Unless authorized by the Director, Type VI Activities shall not be permitted at any pavilion. (Ord. No. 383, April 30, 1980; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.14 Liability Of Permittee.

Any person or organization who has been issued a permit for Type III, Type IV, Type V or Type VI Activity shall defend, indemnify and hold harmless the County and its officers, agents and employees for the liability, damage, loss or injury to any person or property which arises from the activity for which the permit has been issued. (Ord. No. 383, April 30, 1980)

Sec. 19-1.15 Revocation.

The Director shall have the authority to revoke a permit upon a finding of a violation of any rule, ordinance, statute, or upon good cause shown. (Ord. No. 383, April 30, 1980; Ord. No. B-270-85, June 12, 1985; Ord. No. 803, May 28, 2003)

Sec. 19-1.16 Duration Of Use.

A permit for Type III, Type IV, Type V and Type VI Activities at any park or recreation facility shall not be given to any person or organization for more than three (3) consecutive days, unless otherwise authorized by the Director. (Ord. No. 383, April 30, 1980; Ord. No. 803, May 28, 2003)

Sec. 19-1.17 Refreshment Concession.

(a) Unless the concession is of the type and nature so as to require competitive bidding pursuant to Chapter 102, Hawaii Revised Statutes, the refreshment concession for any Type III, Type IV, Type V or Type VI Activity may be awarded to the person or organization who has been granted a permit by the Director to engage in Type III, Type IV, Type V or Type VI Activities.

(b) If the Type III, Type IV, Type V or Type VI permittee declines to operate the concession, the Director may, at his discretion, award the concession to any school, church, or other non-profit organization who is on the refreshment concession list as provided in subsection (d) of this section.

(c) The Director may, at his discretion, award the concession for Type I and Type II activities to any school, church or other non-profit organization who is on the refreshment concession list as provided in subsection (d) of this section.

(d) Non-profit organizations who wish to operate a refreshment concession as provided in subsections (b) and (c) of this section shall file a written application to the Director and provide proof of non-profit status at the time of application. The Director shall maintain a list of all non-profit organizations who are authorized to operate a refreshment concession, and award the concession in the order of the list.

(e) No alcoholic beverages shall be sold at a refreshment concession. (Ord. No. 383, April 30, 1980; Ord. No. 803, May 28, 2003)

Sec. 19-1.18 Promulgation Of Rules And Regulations.

The Director may promulgate such rules and regulations, pursuant to the Hawaii Administrative Procedures Act, to implement any of the provisions of this Article. (Ord. No. 383, April 30, 1980; Ord. No. 803, May 28, 2003)

(*Chapter 19, Article 2, is repealed on July 1, 2004, and replaced in its entirety with the following Chapter 19, Article 2, and shall be effective July 1, 2004)

ARTICLE 2. CAMPING ON COUNTY PARKS AND PROPERTIES*

Sec. 19-2.1 Purpose.

An Article to establish proper controls over the use of County Parks so that the people will have the optimum use and enjoyment of the parks. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.1, R.C.O. 1976; Ord. No. 803, May 28, 2003)

Sec. 19-2.2 Title.

This Article shall be known as and may be cited as the "Camping Ordinance". (Ord. No. 144, November 29, 1969;

Sec. 14, C.O. 1971; Sec. 19-1.2, R.C.O. 1976; Ord. No. 803, May 28, 2003)

Sec. 19-2.3 When Permit Required; Time For Issuance.

(a) Any person who camps, erects a tent or constructs any temporary sleeping quarters on any county public park during the hours of 5:00 P.M. to 10:00 A.M. shall first obtain a camping permit from the Offices of Community Assistance or any other authorized county agency.

(b) Except as authorized in Section 19-2.7 of this Article, permits shall be issued during normal hours of work of the County from the Offices of Community Assistance or other agency that is designated by the Offices of Community Assistance. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.4 and Sec. 19-1.7, R.C.O. 1976; Ord. No. 359, February 22, 1979; Ord. No. B-270-85; June 12, 1985; Ord. No. 503, July 7, 1987; Ord. No. 567, April 17, 1990; Ord. No. 803, May 28, 2003)

Sec. 19-2.4 Permit Terms And Conditions.

The Offices of Community Assistance shall issue a camping permit upon the following terms and conditions:

(1) Each permittee for camping, except those persons and organizations who are exempt under Section 19-2.5 of this Article or those persons who are found camping without a permit and who are issued a permit in accordance with Section 19-2.7 of this Article, shall pay the sum of Three Dollars ($3) per person camping, per night.

(2) Each permittee shall leave the premises in a sanitary, clean and orderly condition.

(3) No permit shall be issued to allow camping and no one shall be allowed to camp for more than seven (7) consecutive days at any campsite.

(4) Each camper shall be limited to sixty (60) camping days per year-long period.

(5) Each permittee must show or display the permit to any authorized County officer or employee.

(6) Permits shall be issued individually. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.4, R.C.O. 1976; Ord. No. 359, February 22, 1979; Ord. No. B-270-85, June 12, 1985; Ord. No. 503, July 7, 1987; Ord. No. 803, May 28, 2003)

Sec. 19-2.5 Permit Fee Exemptions.

Any person who provides a statement under oath of his continued and present residency in the State of Hawaii for a period of one year, or who is a resident as defined in Section 235-1, Hawaii Revised Statutes, and all members of

eleemosynary groups, organizations, associations or clubs, duly organized and registered under the laws of the State of Hawaii, including all public and private school clubs, associations, organizations and groups which are recognized by the Department of Education of the State of Hawaii, and children below eighteen (18) years of age, are exempted from the payment of any fees as provided in this Article, provided, applications for permits must be submitted and approved, and the number and names of the persons comprising the group shall be recorded. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.5, R.C.O. 1976; Ord. No. 359, February 22, 1979; Ord. No. 503, July 7, 1987; Ord. No. 803, May 28, 2003)

Sec. 19-2.6 Animals Prohibited.

Animals are prohibited from being brought into the camping area. The County park caretaker, or other County employee authorized by the Director, may ask that the animal be removed from the camping area, and for failure to comply therewith, the park caretaker or other County employee may summarily revoke the camping permit. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.6, R.C.O. 1976; Ord. No. 359, February 22, 1979; Ord. No. 503, July 7, 1987; Ord. No. 803,May 28, 2003)

Sec. 19-2.7 Camping Without Permits.

Any person found camping without a permit by the County employee authorized by the Director, may be evicted from the County park or, when a permit would otherwise be authorized to be issued, the County employee, may issue a camping permit for one (1) night only upon the payment of a permit fee in the sum of Five Dollars ($5). Any person paying such fee shall not be subject to the penalties prescribed in Section 19-2.8 of this Article; provided, however, that in the event such person desires a permit for more than one (1) night, he shall obtain a camping permit pursuant to Section 19-2.4 of this Article on the day immediately following the issuance of a permit in accordance with this Section. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Ord. No. 359, February 22, 1979; Ord. No. 503, July 7, 1987; Ord. No. 803, May 28, 2003)

Section 19-2.8 Penalty.

Any person found camping in the County Parks without a camping permit shall be punished by a fine not exceeding One Hundred Dollars ($100). Each day of violation shall be a separate offense. (Ord. No. 144, November 29, 1969; Sec. 14, C.O. 1971; Sec. 19-1.8, R.C.O. 1976; Ord. No. 503, July 7, 1987; Ord. No. 803, May 28, 2003)

ARTICLE 3. WAILUA GOLF COURSE

Sec. 19-3.1 Declaration Of Purpose And Intent.

An Article establishing rules of play, playing fees and providing for Golf Course Marshals for the Wailua Golf Course. The primary interest of this Article is to enhance the promotion of the sport of golf for the good of all the people of the County. (Ord. No. 146, May 11, 1970; Sec. 15, C.O. 1971; Ord. No. 216, June 26, 1974; Ord. No. 223, September 6, 1974; Ord. No. 224, September 6, 1974; Sec. 19- 2.1, R.C.O. 1976; Sec. 19-2.1, 1978 Cumulative Supplement)

Sec. 19-3.2 Playing Fees.

(a) Definitions. When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

(1) "Daily Rate" means playing fee for a continuous play of eighteen (18) holes during the day, Mondays to Fridays.

(2) "Golf Course" means Wailua County Golf Course, located at Wailua, Kauai.

(3) "Holiday" means a day designated as a holiday for County government employees.

(4) "Junior Resident" means any resident who has not graduated from high school in the State of Hawaii prior to registration.

(5) "Monthly Rate, Resident" means playing fees for the calendar month, regardless of the portion of the month gone prior to registration for a monthly rate.

(6) "Registration" means signing and paying of fee at the cashier's office at the golf course.

(7) "Resident" means a person who has filed a Hawaii Resident State income tax return for the most recent tax period or voted in the most recent general or

primary election in the State of Hawaii, or possesses a valid Hawai'i Driver's License, and all active-duty military personnel stationed in Hawai'i. Persons who are not residents as so defined shall be deemed to be "Nonresident."

(8) "Senior Kauai Resident" means any resident who has attained the age of sixty-five (65) prior to registration who has filed a Hawaii Resident State income tax return for the most recent tax period or voted in the most recent general or primary election in the County of Kauai. The income tax return shall bear a County of Kauai address.

(9) "Twilight Hours" means:

(i) on the front nine holes, starting time after 3:00 p.m.

(ii) on the back nine holes, starting time before 7:30 a.m. or at the discretion of the Golf Course Administrator or designee.

(b) Playing fees at the golf course are established as follows:

	Daily	Per Day Weekends & Holidays	Monthly
Resident	$10.00	$15.00	$46.00
Senior Resident	$ 9.00	$13.00	$26.00
Junior Resident	$ 1.00	$ 1.00	None
Nonresident	$32.00	$44.00	None
Twilight	One-half the applicable fee		

Nonresident Playcard $135.00
(good for 5 rounds of golf)

(c) Playing Fee Exemptions. Professional golfers and officials of the Professional Golfer's Association are exempt from paying any playing fees.

(d) Special Playing Fee Rate and Budget. Guests of the Mayor and Council Chairperson on official government business that could provide significant benefits to the golf course and/or the residents of the County of Kauai are entitled to utilize the daily resident rate for playing. The golf budget shall provide an annual appropriation not to exceed Four Hundred Dollars ($400.00) to offset this fee. The County Engineer or his designee shall be notified in advance of playing before provisions of this section can be utilized.

(e) Locker Fees. The locker rental fee shall be payable in advance at the rate of Seventy-Five Dollars ($75.00) per year, Forty Dollars ($40.00) semi-annually, or Eight Dollars ($8.00) per calendar month. There shall be no reduction or rebate for any portion of a year, semi-annually, or month.

(f) Proof of Residence or Age. The Golf Course Administrator, when in doubt as to any golfer's claim for a reduced rate, may request proof of the golfer's residency or age. Proof may consist of birth certificates, affidavits or other evidence deemed satisfactory by the Golf Course Administrator.

(g) The above-mentioned fees notwithstanding, fees for golf tournaments sponsored by nonprofit corporations or nonprofit associations whose primary objective is to assist and develop Public Links Junior Golf Programs for the benefit of junior resident golfers residing in this County, shall be Three Dollars ($3.00) per round.

(h) The golf course shall be closed on Christmas Day and New Year's Day for supervised play. The golf course may be open for unsupervised play on Christmas Day and New Year's Day at the discretion of the Golf Course Administrator.

(i) Driving Range Ball Token Fees. The fee for a driving range ball token is One and 50/100 Dollars ($1.50). One token can be redeemed for one small bucket of driving range balls and two (2) tokens can be redeemed for one large bucket of driving range balls. (Ord. No. 146, May 11, 1970; Sec. 15, C.O. 1971; Ord. No. 216, June 26, 1974; Sec. 19-2.2, R.C.O. 1976; Ord. No. 315, June 21, 1977; Ord. No. 339, December 29, 1977; Sec. 19-2.2, 1978 Cumulative Supplement; Ord. No. 418, December 29, 1981; Ord. No. 456, March 28, 1984; Ord. No. 588, August 1, 1991; Ord. No. 690, June 19, 1995; Ord. No. 727, June 4, 1998; Ord. No. 766, May 15, 2001; Ord. No. 807, September 26, 2003)

Sec. 19-3.3 Regulation Of Play.

(a) Registration. All players must:

(1) Register at the office before playing the course.

(2) Have a golf bag and a set of golf clubs of which one (1) must be a putter.

(b) Playing Rules. Playing rules are as follows:

(1) All play starts on the first Tee unless directed to the tenth Tee by the Starter.

(2) Starting between matches or in the middle of tournament play is left to the discretion of the Starter.

(3) Play in more or less than a foursome is not desirable. However, play in less than a foursome and up to a sixsome may be permitted at the discretion of the Starter. In cases where sixsomes are allowed, players must utilize electric or gas operated golf carts. Play in less than a foursome shall be allowed if the player(s) pay a fee equivalent to that required of a foursome of the same category, unless such additional fee is waived by the Starter, depending on the congestion on the course.

(4) Slow players must allow faster players to play through.

(5) Players shall not play until the match in front is out of range or has completed the hole and is off the green.

(6) Players looking for a lost ball, after five (5) minutes, must allow the following players to play through.

(7) Players completing the first nine (9) holes of play shall have the right of way on the tenth Tee. Players stopping for more than six (6) minutes shall lose their spot in the field.

(8) Practicing is permitted in designated areas only: practice putting green and practice driving range. Practicing from sand traps or on a green on the golf course is prohibited at any time.

(9) Hitting a ball from any putting surface is prohibited. Golf bags must not be laid on greens, nor caddy carts pulled across any green or through sand traps.

(10) Electric carts must be driven on either side of the fairways and not through the center areas between lateral lines of the automatic sprinkler heads. Carts must be kept outside of the burnt boundary lines of the tees and greens.

(11) Shoes with corrugated soles, or ladies' high-heeled shoes, or shoes with long hob nails are not allowed on the course.

(12) A single player or twosome shall have no standing on the course.

(13) Players must show the green fee receipt on the course when requested to do so by any authorized personnel of the course.

(14) Any player who maliciously and willfully damages the golf course or golf property shall be ejected and liable for damages caused.

(c) Starting Times. Starting time requirements are as follows:

(1) Starting times are required for play on the course.

(2) Club play, tournament, and tour reservations must be requested in writing or orally to the Golf Course Administrator.

(3) All players with starting times must report to the Starter at least fifteen (15) minutes prior to starting time.

(d) Care of Greens, Fairways and Tees. Ball pitch marks on the greens shall be repaired by the players. Divots on the fairways and tees shall be replaced by the players. All footprints and divots in the sand traps shall be smoothed by the players.

(e) General Rules. General rules are as follows:

(1) Golfers, while on the golf course and premises, shall wear clothing appropriate and usual for their sex on public golf courses within the State.

(2) Junior resident golfers shall be permitted to play when accompanied by their parents or an adult, or by the permission of the Starter.

(3) All green fees and locker fees must be paid in advance. No "rain check" after completing nine (9) holes of play.

(4) All animals are prohibited from the golf course.

(5) All unauthorized vehicles, including dune buggies, motorcycles, minicycles, scooters, and private golf carts are prohibited on the golf course other than in designated parking areas.

(6) Children under twelve (12) years of age must be accompanied by their parents or an adult, except the caddies who are duly recognized by the Golf Course Administrator.

(7) Observe all signs on the golf course.

(8) All players will be held responsible for knowing the rules before playing the course.

(9) Any person violating any provision of this Section shall be subject to the penalties provided in Section 19-3.4(b) of this Article. (Ord. No. 224, September 6, 1974; Sec. 19-2.3, R.C.O. 1976; Ord. No. 315, June 21, 1977; Ord. No. 339, December 29, 1977; Sec. 19-2.3, 1978 Cumulative Supplement; Ord. No. 727, June 4, 1998)

Sec. 19-3.4 Golf Course Marshals.

(a) Findings and Purpose. The Council finds that although there are rules pertaining to play on the Wailua Golf Course, lack of provisions relating to persons who are authorized to enforce the rules has resulted in undesirable conduct on the course to a disturbing degree. Consequently, there shall be Golf Course Marshals for the better enforcement of the rules pertaining to play on the golf course. Marshals shall be appointed by the Golf Course Administrator.

(b) Authority. The Marshals are authorized to oversee the compliance of the course rules by golfers. If there is any violation of any rule contained in this Article, the Marshals shall report the violations to the Golf Course Administrator. The Golf Course Administrator may suspend any player reported to have violated any rule from playing on the course for a length of time, as may in his discretion, appear appropriate for the violation. The minimum suspension for a violation of any rule shall be for fifteen (15) days. Each separate violation of any rule shall be considered a separate offense. Suspension from the privilege of playing shall not bar any action by the County for any damage or loss caused by the wrongful conduct of any golfer. . (Ord. No. 223, September 6, 1974; Sec. 19-2.4, R.C.O. 1976; Ord. No. 315, June 21, 1977; Sec. 19-2.4, 1978 Cumulative Supplement; Ord. No. 727, June 4, 1998)

Sec. 19-3.5 Prohibiting Intoxicating Liquor Within The Golf Course.

It shall be unlawful for any person to possess or consume any intoxicating liquor at any time within the boundaries of the golf course, except in areas licensed for consumption by the liquor commission. Any person convicted of violating this section, or as the same may be amended or supplemented, shall be punished by a fine not exceeding $500.00 nor less than $50.00. In addition, the County shall have the right to avail itself of any civil remedy appropriate under the circumstances. (Ord. No. 768, June 12, 2001)

CHAPTER 20

GENERAL PROVISIONS RELATING TO PUBLIC WAYS AND PLACES

Article 1.	Estrays
Sec. 20-1.1	Purpose
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ARTICLE 1. ESTRAYS

Sec. 20-1.1 Purpose.

An ordinance relating to estrays on public roads and public grounds and providing penalties therefor. (Ord. No. 7, December 15, 1915; Ord. No. 11, February 6, 1918; Ord. No. 29, July 2, 1930; Ord. No. 103, July 16, 1958; Ord. No. 111, June 7, 1961; Sec. 10, C.O. 1971; Sec. 20-1.1, R.C.O. 1976)

Sec. 20-1.2 Definitions.

When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning was intended:

(1) "Estray" means any horse, mule, ass, swine, sheep, goat or cattle found on public roads or public grounds and not accompanied by or under the control of the owner.

(2) "Owner" means every person owning, harboring, keeping or having custody of any horse, mule, ass, dog, sheep, goat or cattle.

(3) "Public Grounds" means all grounds as are under the control and supervision of the County of Kauai, either by purchase, gift or otherwise for the use and benefit of the public.

(4) "Public Roads" means any highway, street or alley open to public vehicular traffic. (Ord. No. 7, December 15, 1915; Ord. No. 12, September 4, 1918; Ord. No. 103, July 16, 1958; Sec. 10, C.O. 1971; Sec. 20-1.2, R.C.O. 1976)

Sec. 20-1.3 Estrays Prohibited.

It shall be unlawful for the owner of any horse, mule, ass, swine, sheep, goat or cattle to permit or cause that animal to become an estray. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.3, R.C.O. 1976)

Sec. 20-1.4 Impounding.

Any police officer or other person as may be authorized by the Council shall take under its control and impound any estray at a County Pound or at any area providing proper care. (Ord. No. 7, December 15, 1915; Ord. No. 111, June 7, 1961; Sec. 10, C.O. 1971; Sec. 20-1.4, R.C.O. 1976)

Sec. 20-1.5 Impounding Expenses; Owner Liability.

The owner of any estray shall pay to the person authorized to impound the estray the reasonable cost of keeping and caring for the estray. The owner shall also

pay the reasonable cost of taking up, driving and impounding the estray. (Ord. No. 7, December 15, 1915; Ord. No. 11, February 6, 1918; Ord. No. 111, June 7, 1961; Sec. 10, C.O. 1971; Sec. 20-1.5, R.C.O. 1976)

Sec. 20-1.6 Notice; Proof Of Ownership; Payment of Expenses.

(a) The owner of an impounded estray shall be notified of the impoundment and of the impounding expenses incurred.

(b) The owner shall produce proof of his right to the estray and shall pay the impounding expenses.

(c) If the owner fails to produce proof of ownership or fails to pay the impounding expenses within forty-eight (48) hours after notice, or if the owner is unknown, the estrays shall remain impounded and be sold at public sale as provided in this Article. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.6, R.C.O. 1976)

Sec. 20-1.7 Unclaimed Estrays.

The person authorized to impound the estray shall make his return to the poundmaster, setting forth the number and kind of estrays impounded, the time when taken, the owner of the estray, if known, the fact of giving the notice to the owner and that the estray still remains in the pound unclaimed. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.7, R.C.O. 1976)

Sec. 20-1.8 Public Sale.

When the poundmaster shall have received the return provided in Section 20-1.7, the poundmaster shall advertise and sell the impounded and unclaimed estray by placing notice in a newspaper of general circulation giving a full description of the estray together with an announcement of the time and place of the public sale, which sale shall take place not less than ten (10) days after the day the notice first appears for which notices the poundmaster shall be reimbursed the costs of the publication of notice to be charged pro rata according to the number of estrays advertised. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.8, R.C.O. 1976)

Sec. 20-1.9 Disposition of Proceeds.

(a) The proceeds of the public sale, or a receipt therefor, given by the owner after paying the impounding expenses and the expenses of advertisement, shall be remitted by the poundmaster to the Treasury of the County, to be held as a special deposit subject to the order of the Council.

(b) If the owner of the estray shall substantiate his claim thereto within one (1) year after the sale of the estrays, the Council shall order the balance of the proceeds to be paid over to him. If the claim is not substantiated,

the Council shall order the proceeds to be transferred and become a County realization. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.9, R.C.O. 1976)

Sec. 20-1.10 Penalties.

(a) Any person convicted of violating any provision of this Article shall be fined in a sum not exceeding One Hundred Dollars ($100) and shall pay all impounding expenses.

(b) Any person who maliciously and designedly opens a gateway or breaks a fence to cause or permit any horse, mule, ass, swine, sheep, goat or cattle to become an estray, or any person who maliciously and designedly drives, leads or leaves any animal upon public roads or public grounds so that the animal may commit a trespass, shall for every offense be fined under the penalty provided in subsection (a) of this Section and no penalty shall be imposed upon the owner of the animals. (Ord. No. 7, December 15, 1915; Sec. 10, C.O. 1971; Sec. 20-1.10, R.C.O. 1976)

ARTICLE 2. TRIMMING AND CUTTING OF TREES AND PLANTS.

Sec. 20-2.1 Purpose.

An ordinance to regulate and control the trimming, cutting and destruction of trees, bushes and plants located on the public highways and the public lands of the County of Kauai. (Ord. No. 9, February 7, 1917; Sec. 11, C.O. 1971; Sec. 20-2.1, R.C.O. 1976)

Section 20-2.2 Prohibited Conduct.

No person shall mutilate, cut down, remove, trim out, chop, clip, burn or otherwise injure any tree, bush or plant when the tree, bush or plant is located on or growing on the public highways of the County of Kauai, or are located on or growing on any land owned or leased by the County without first obtaining authorization from the County Engineer. (Ord. No. 9, February 7, 1917; Sec. 11, C.O. 1971; Sec. 20-2.2, R.C.O. 1976; Ord. No. 730, January 29, 1999)

Sec. 20-2.3 Penalty.

Any person convicted of violating Section 20-2.2 of this Article shall be punished by a fine not to exceed One Hundred Dollars ($100). (Ord. No. 9, February 7, 1917; Sec. 11, C.O. 1971; Sec. 20-2.3, R.C.O. 1976)

ARTICLE 3. LITTER PROHIBITED

Sec. 20-3.1 Purpose.

An ordinance prohibiting the throwing or depositing of litter in public places in the County of Kauai. (Ord. No.

113, October 4, 1961; Sec. 12, C.O. 1971; Sec. 20-3.1, R.C.O. 1976)

Sec. 20-3.2 Litter Defined.

When used in this Article the word "litter" means any rubbish, or debris of any kind or anything or substance that is likely to injure any person, animal or vehicle, or that is prejudicial to the public health, safety and welfare, including but not limited to any glass, glass bottle, tin can, nail, tack, wire, piece of metal, stone, paper, food remnant, rag, wood, straw, hay or sweeping. (Ord. No. 113, October 4, 1961; Sec. 12, C.O. 1971; Sec. 20-3.2, R.C.O. 1976)

Sec. 20-3.3 Litter In Public Places.

No person shall throw or deposit litter in or upon any public street, sidewalk, beach, park or other public place within the County except in public receptacles, in authorized receptacles for collection, or in official County dumps. (Sec. 20-3.3, R.C.O. 1976)

Sec. 20-3.4 Placement Of Litter In Receptacles So As To Prevent Scattering.

Persons placing litter in public receptacles shall do so in a manner so as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place. (Sec. 20-3.4, R.C.O. 1976)

Sec. 20-3.5 Litter Thrown By Persons In Vehicles.

No person, while driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the County. (Sec. 20-3.5, R.C.O. 1976)

Sec. 20-3.6 Litter In Streams, Bays And Other Bodies Of Water.

No person shall throw or deposit litter in any river, pond, lake, stream, bay or any other body of water in or adjacent to any public park or other public place within the County. (Sec. 20-3.6, R.C.O. 1976)

Sec. 20-3.7 Penalty.

Any person convicted of violating any of the provisions of this Article shall be punished by a fine not exceeding Two Hundred and Fifty Dollars ($250) for each offense. A separate offense is committed upon each day during or on which a violation occurs or continues. (Ord. No. 113, October 4, 1961; Sec. 12, C.O. 1971; Sec. 20-3.7, R.C.O. 1976)

ARTICLE 4. DISTRIBUTION OF HANDBILLS

Sec. 20-4.1 Purpose.

An ordinance to protect against the health and safety menace and the expense incident to the littering of the streets and public places by the indiscriminate and uncontrolled distribution of handbills. (Sec. 20-4.1, R.C.O. 1976)

Sec. 20-4.2 Handbill Defined.

When used in this Article, "handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature which advertises for sale any merchandise, product, commodity or thing, or which directs attention to any profit or non-profitmaking business, organization, or activity, or which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind whether or not for the purpose of private gain or profit. (Sec. 20-4.2, R.C.O. 1976)

Sec. 20-4.3 Restriction On Distribution Of Handbills.

No person shall throw, cast, scatter, drop or deposit, or cause to be thrown, cast, scattered, dropped or deposited any handbill in or upon any public highway or public place within the County of Kauai. (Ord. No. 35, June 19, 1931; Sec. 12, C.O. 1971; Sec. 20-4.3, R.C.O. 1976)

Sec. 20-4.4 Penalty.

Any person convicted of violating Section 20-4.3 of this Article is guilty of a misdemeanor and shall be punished by a fine not exceeding One Hundred Dollars ($100) for each offense. A separate offense is committed upon each day during or on which a violation occurs or continues. (Ord. No. 35, June 19, 1931; Sec. 12, C.O. 1971; Sec. 20- 4.4, R.C.O. 1976)

ARTICLE 5. REVOCABLE PERMITS

Sec. 20-5.1 Purpose; Bidding Required.

The purpose of this Article is to establish the policy for granting revocable permits for the use of county real property. Such revocable permits shall be granted pursuant to competitive bidding procedures, except as provided for hereunder. (Ord. No. 445, February 15, 1983)

Sec. 20-5.2 Exceptions To Bidding Requirement.

The Finance Director may grant revocable permits approved by the County Attorney as to form and legality, without calling for public bids, when:

(1) The intended use does not conflict with use for immediate public purposes; and

(2) There is no reasonable alternative other than the use of public property; and

(3) The proposed use does not create a nuisance or unreasonably affect public health or welfare; and

(4) There is no conflicting request for use of the particular public property; and

(5) The revocable permit shall be limited to a month-to-month basis or less. (Ord. No. 445, February 15, 1983)

Sec. 20-5.3 Rental.

(a) For use by nonprofit organizations or governmental agencies for public purposes, the rental shall be $1.00 per month. "Nonprofit organization" is defined to mean an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational or other nonprofit purposes, no part of the assets, income or earnings of which inures to the benefit of any individual or member thereof.

(b) For use by others, the rental shall be the fair market rental value as jointly established by the Finance Department and the Department of Public Works, or at the option of the user, the rental shall be the fair market rental value as established by a disinterested appraiser paid for by the user and approved by the Finance Department.

(c) Improvements to be made by the user that will benefit the county after the permit expires may be considered in establishing the rent. However, improvements constructed shall be at the risk of the user and no damages or claims shall be payable to the user upon termination of the permit. (Ord. No. 445, February 15, 1983)

Sec. 20-5.4 Revocation; Terms.

All revocable permits shall provide for revocation upon 15 days written notice to the user regardless of a stated term. Such notice shall state the reason for the revocation. The Finance Director, upon approval of the County Attorney, may require such other conditions or terms as are necessary. (Ord. No. 445, February 15, 1983)

ARTICLE 6. EASEMENTS.

Sec. 20-6.1 Purpose; Bidding Required.

The purpose of this Article is to establish the policy for granting easements on county real property. Such easements shall be granted pursuant to competitive bidding procedures, except as provided for hereunder. (Ord. No. 445, February 15, 1983)

Sec. 20-6.2 Exceptions To Bidding Requirement.

The Finance Director may grant easements through contracts approved by the County Attorney as to form and legality, without calling for public bids, when:

(1) The intended use does not conflict with use for immediate public purposes; and

(2) There is no reasonable alternative other than the use of public property; and

(3) The proposed use does not create a nuisance or unreasonably affect public health or welfare; and

(4) There is no conflicting request for use of the particular public property. (Ord. No. 445, February 15, 1983)

Sec. 20-6.3 Charge.

(a) For use by nonprofit organizations or governmental agencies for public purposes, the charge shall be $5.00. "Non-profit organization" is defined to mean an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational or other nonprofit purposes, no part of the assets, income or earnings of which inures to the benefit of any individual or member thereof.

(b) For use by others, the charge shall be the fair market value as jointly established by the Finance Department and the Department of Public Works, or at the option of the user, the charge shall be the fair market value as established by a disinterested appraiser paid for by the user and approved by the Finance Department. (Ord. No. 445, February 15, 1983)

Sec. 20-6.4. Terms and Conditions.

(a) The grant of easement shall specify the duration of the easement and may provide conditions for termination, including but not limited to abandonment and public need. The Finance Director, upon approval of the County Attorney, may require such other terms or conditions as necessary.

(b) Risks of the termination of easement for public need shall be at the cost of the grantee. No damages shall be due or payable to the grantee upon termination of easement for public need. (Ord. No. 445, February 15, 1983)

Sec. 20-6.5 Approval by Council.

Easements for a term exceeding one year shall be approved by the Council. (Ord. No. 445, February 15, 1983)